



Pro Se Guide to **APPELLATE PROCEDURE**



Indiana State House

Clerk of the Indiana Supreme Court, Court of Appeals and Tax Court

200 West Washington Street, 217 State House
Indianapolis, IN 46204

This publication is also available on the Clerk's web site: <http://www.in.gov/judiciary/cofc/>

The *Pro Se Guide to Appellate Procedure* is not legal advice and cannot be cited as legal authority. This guide is not intended to replace or to be a substitute for the [Indiana Rules of Appellate Procedure](#), and should be used in conjunction with the Rules. Anyone considering initiating an appeal should seek legal counsel.

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By the Clerk of the Indiana Supreme Court, Court of Appeals and Tax Court.

This *Pro Se Guide to Appellate Procedure* is based upon the Indiana Rules of Appellate Procedure in effect as of January 1, 2004.



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Greetings!

As Indiana's Clerk of the Supreme Court, Court of Appeals, and Tax Court, it is my pleasure to introduce this first edition of the *Pro Se Guide to Appellate Procedure*.

The goal of this guide is to provide general information to assist citizens in understanding the appeals process and to help non-lawyers with the basic steps and procedures for filing an appeal in the Indiana Court of Appeals and Supreme Court. The guide focuses primarily on appeals to the Indiana Court of Appeals (the intermediate-level court which hears criminal and civil appeals from Indiana's trial courts and administrative agencies), but also deals with some types of cases heard by the Indiana Supreme Court.

Many individuals contributed to the completion of this guide, and I am grateful for their assistance. I would especially like to thank Kelly Bauder and David Schanker for their work in researching and writing this guide, and Lindsey Borschel for her expertise in preparing the guide for publication in print and on the web.

The Clerk's Office is dedicated to serving the citizens of Indiana, and we hope that this guide is a useful tool for navigating the complex appeals process.

Sincerely,

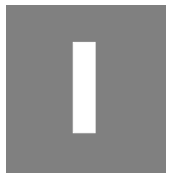
David C. Lewis



Clerk of the Appellate Courts
David C. Lewis

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FREQUENTLY ASKED QUESTIONS ABOUT THE APPELLATE PROCESS

Q. What is an appeal?

- A.** If you go to court, and you are not satisfied with the court's decision, you are entitled to appeal the decision to a higher court. An appeal asks the higher court to look at what the trial court did to determine if the trial court made the right decision or followed the correct procedure in making its decision. Unless the appeal is an interlocutory appeal (explained below), it must be a final decision from the trial court.

Q. What is a judgment or order?

- A.** "Judgment" comes at the end of a case and usually favors one of the parties. The judgment, sometimes referred to as an "order," may be the verdict of the jury or a ruling made by a judge. Often the judgment requires one or both of the parties to do something. The judgment is usually in writing and explains why the court made its decision. Many civil cases end when one party asks for summary judgment. A motion for summary judgment filed by one of the parties asks the judge to rule in its favor *prior to* a trial. If the trial court grants summary judgment in favor of one party, the other party can appeal that decision.

Q. Who can appeal?

- A.** With few exceptions, everyone who loses at trial has the right to appeal, with or without the assistance of an attorney. The process of an appeal is complicated, time-consuming, and difficult, however, and the assistance of an attorney is recommended. No special treatment is given to appellants who represent themselves. Like attorneys, they must comply with the requirements of the [Indiana Rules of Appellate Procedure](#).

Q. What types of courts are there?

- A.** There is a trial court in each of Indiana's ninety-two counties. Most counties have several courts, with some specializing in criminal cases and some specializing in civil cases or small claims cases. The next level above the trial court is the Indiana Court of Appeals. If you are unhappy with the decision in the trial court, you may appeal the decision to the Court of Appeals. The next level above the Court of Appeals is the Indiana Supreme Court. If you are unhappy with the decision of the Court of Appeals, you may ask the Indiana Supreme Court to look at your case. There are some cases that can be appealed directly to the Supreme Court, but most appeals start in the Court of Appeals.

Q. What is the difference between a criminal case and a civil case?

- A.** A criminal case is where a person is charged with violating one of Indiana's criminal laws. In a criminal case, the State of Indiana, represented by the County Prosecutor, may bring the accused person to trial. In a criminal case, the State is the plaintiff and the accused person is the defendant (because that person must *defend* himself or herself against the accusation). If the defendant is found guilty, the defendant may appeal that judgment to the Court of Appeals.

A civil case is where individuals, groups of individuals, or companies (called parties or litigants) are in conflict and ask the court to resolve that conflict. Civil cases can involve disputes over contracts, automobile accidents, injuries, divorce, child custody, and many other issues. If any party to the case is unhappy with the court's ruling in the case, that party can appeal the court's ruling to the Court of Appeals.

Q. How much does it cost to appeal a decision?

A. The filing fee to open a case in the Court of Appeals is \$250. Cases coming from certain administrative agencies or from parties that have been granted pauper status by the trial court or administrative agency do not have to pay the filing fee. This filing fee is due once the Notice of Appeal is filed in the trial court. A copy of the Notice of Appeal must be sent to the Court of Appeals along with the \$250 filing fee. If a Transcript is requested, there are fees that the Court Reporter will charge to prepare the transcript for the Court. Even if a party is granted pauper status, the court reporter, in some circumstances, can still charge to prepare the transcript. The trial court can explain those costs. There are also costs involved with preparing documents for the Court as well as getting copies made. Most filings in the Court of Appeals require multiple copies—as many as nine in the case of briefs. Thus, there are expenses for copying documents in addition to the filing fee, the cost of copying portions of the Clerk's Record, and the cost of preparing any transcripts in the case.

Q. Can the Court of Appeals or Supreme Court appoint an attorney to represent me?

A. No. The trial court can appoint an attorney to represent a party on appeal in a criminal case under certain circumstances. The Court of Appeals and Supreme Court do not appoint attorneys. Trial courts generally do not appoint attorneys in civil cases. If you are financially unable to hire an attorney, a motion can be filed in the trial court asking for pauper status and/or the appointment of counsel in a criminal case. Contact the trial court to determine what is necessary for this procedure and if it is possible to obtain court-appointed counsel in your particular kind of case.

Q. If I choose to get an attorney to represent me, can the Clerk's office recommend a good lawyer?

A. No. The Clerk cannot recommend a particular lawyer. The Indianapolis Bar Association ("IBA") has a referral service where you can get names of attorneys specializing in a particular area of law. The IBA can only provide names of attorneys, but cannot recommend an attorney. The IBA can be reached at 317-269-2222. You may also contact the Indiana State Bar Association ("ISBA") to get the phone number for a local bar association, which may also be able to give a referral. The ISBA phone number is 317-639-5465. While the ISBA or a local bar association cannot recommend an attorney, they can provide you with a list of names.

Q. Is there any difference between the way civil and criminal cases are handled on appeal?

A. There are minor differences, but most of the filing deadlines and technical requirements are the same. One such difference is the Appellant's Appendix. Criminal and civil cases have different requirements for what must be placed in the Appendix.

Q. Where can I find the rules for filing an appeal?

A. You can access the appellate rules as well as sample forms on the Court's website. The internet address is: <http://www.in.gov/judiciary/rules/appellate/index.html>. Most public libraries have the rulebook. It is called Indiana Rules of Court, and it contains an entire section on appellate rules called "Indiana Rules of Appellate Procedure."

Q. What is the first thing I should do if I want to appeal the trial court's decision?

- A.** Except for interlocutory appeals (which will be explained later), the trial court must be finished with your case before you can appeal. The trial court is finished when it issues a final judgment. You then have thirty (30) days to file a document called a Notice of Appeal. The Notice of Appeal is filed in the trial court clerk's office. The Notice of Appeal tells the trial court that you are going to appeal the trial court's decision, and it asks the trial court to put together the Clerk's Record and, if you need it, the Transcript of any hearings or trials that were held in the trial court. The Clerk's Record consists of all the documents that were filed with the trial court in the case. The Transcript is the written version of everything that was said at the trial or hearings in the case. It is very important to file the Notice of Appeal within the required thirty days, or you may forfeit your right to appeal. If you are requesting a transcript, it might be helpful to serve a copy of the Notice of Appeal to the court reporter. Payment arrangements will need to be made at this time before the court reporter will begin work on the transcript.

Q. If I file a Motion to Correct Error, when is my Notice of Appeal due?

- A.** If a Motion to Correct Error is filed in the trial court, the Notice of Appeal is due thirty days from the date the motion is denied. It is important to note that a Motion to Correct Error can be deemed denied without a written ruling from the court. If after 45 days the trial court has not ruled on the Motion to Correct Error or set a hearing on the Motion, then it is deemed denied. Please refer to [Trial Rule 53.3\(A\)](#).

Q. Should I request the Transcript?

- A.** The party filing an appeal should request the Transcript if what was said at the trial or hearing relates to the issue the party wishes to argue in his or her appeal. If the Transcript does not relate to the issues a party wishes to argue on appeal, it is not necessary to request the Transcript. If a Transcript is requested, the Notice of Appeal should specify which hearings

the party is requesting, and the dates on which they occurred. This helps the court reporter determine which hearings to transcribe. There is a charge to prepare the transcript, which must be paid to the court reporter. Please note that the Transcript is prepared for the Court of Appeals. Each party can check out the Transcript to assist him or her to prepare a brief, but the trial court clerk does not have to provide a free copy to each of the parties unless the trial court clerk will not release the original transcript for review [\[See Appellate Rule 12\(B\)\]](#). Each county has a procedure for checking out the Transcript, so please contact the county clerk to determine its procedure. The Transcript must be paid for in full in order for a party to check it out from the trial court clerk.

Q. What is the Clerk's Record?

- A.** The Clerk's Record is the original papers and motions filed with the trial court or administrative agency. The Clerk's Record also includes any orders or judgments issued by the judge. All documents listed on the trial court's docket (called a Chronological Case Summary) are part of the Clerk's Record. The trial court clerk makes sure he or she has all the documents listed on the Chronological Case Summary and then issues a Notice of Completion of Clerk's Record. The materials in the Clerk's Record will be used to make an Appendix for the judges to use when making a decision in the case.

Q. Will the trial court clerk send me copies of everything in the Clerk's Record?

- A.** Generally, no. When the clerk issues the Notice of Completion of Clerk's Record, it means that all documents filed and the orders and/or judgments issued are in the case file. The clerk will only make copies if specifically requested and charge a fee for copying. It should not be necessary to get copies because you should have your own personal copies of these documents. The exception to this occurs when a person is incarcerated. When someone is in prison, the clerk will send a copy of the Clerk's Record if it is specifically requested.

Q. Are there different types of appeals?

- A.** Yes. Most appeals are regular direct appeals. There are also interlocutory appeals, post-conviction appeals, and expedited appeals (each type of appeal will be explained later).

Q. Do I get a court hearing in a Court of Appeals case?

- A.** No. No trial or hearing takes place in an appeal and no new evidence is presented. The parties make their arguments to the appellate court in writing. Occasionally, the appellate court may order the parties to participate in an oral argument. This is where each party gets a short time, usually 30 minutes, to argue its case in front of a panel of three judges. This is very rare and will usually only occur if one party requests an oral argument. When a motion is filed for an oral argument, the Court issues an order either granting or denying that request.

Q. Who decides a Court of Appeals case?

- A.** Once a case has been filed, a case number is assigned according to the county court or agency where the case originated. Cases are assigned to a panel of three judges. When the case is ready to go to the Court, the Court of Appeals determines which three judges will hear the case. The three judges decide the case, and one judge is chosen to write the court's decision.

Q. Who decides a Supreme Court case?

- A.** There are five justices who serve on the Indiana Supreme Court. The justices all participate in deciding the case, and one justice is chosen to write the opinion.

Q. How will my case be decided?

- A.** Once all the parties have filed briefs with the Court, the case is sent to the Court for a decision. The judges or justices carefully review all of the trial court records, including the transcript, and review the briefs and appendices submitted by the parties. The judges or justices will decide the case, applying the appropriate legal standards using previous cases and statutes as a guide. Please note that judges and justices cannot be contacted directly about a case.

Q. How will I know what decision the Court makes?

- A.** The Court will issue its decision in a document called an opinion or memorandum decision, and it is mailed to the parties in the case. In the opinion the Court explains the facts of the case and discusses each of the arguments made by the parties. At the end of the opinion, the Court explains whether or not it agrees with the trial court or believes the trial court made some type of error. When the Court agrees with the decision of the trial court, the opinion will say, "affirmed." If the Court disagrees with the trial court, the opinion may say, "reversed" or "reversed and remanded." If the case is reversed or remanded, the Court explains why it thinks the decision was wrong, and it gives instructions to the trial court to modify its result or rehear the case.

Q. How do I ask the Court to do something or ask the Court to order the trial court to do something?

- A.** Any request presented to the Court must be in the form of a Motion (review the section on [Motions](#)). Do not send letters to the Court requesting assistance with a matter related to your case. Make any request in the form of a Motion that conforms to the Appellate Rules.

Q. What happens after I file my Notice of Appeal in the trial court?

- A.** The Notice of Appeal lets the trial court know you intend to appeal its decision. If there was a hearing, the Notice of Appeal will also let the trial court know whether or not you are requesting a Transcript of the hearing to be prepared. Once the Notice of Appeal is filed, the trial court clerk has thirty (30) days to issue a Notice of Completion of Clerk's Record. If a Transcript was requested, the trial court clerk has ninety (90) days to issue the Notice of Completion of Transcript. These completions set up the timeline for when other documents must be filed with the Court of Appeals or Supreme Court.

Q. What is the next document I file after the Notice of Appeal?

- A.** The party initiating the appeal (Appellant) must file an Appellant's Case Summary with the Appeals Court within thirty (30) days of filing the Notice of Appeal. This document tells the court who is involved in the case and what the case is about. There is a sample form for the Appellant's Case Summary at the end of this guide. Please note that you have to attach two documents to the Appellant's Case Summary (ACS). You must attach the judgment or order you are appealing and a file-stamped copy of the Notice of Appeal. Both of those documents must be attached to the ACS, or the Clerk's office cannot accept it for filing.

Q. What happens if I miss the deadline for filing the Appellant's Case Summary? Is my case dismissed?

- A.** No. The Appellant's Case Summary must be filed before the Clerk's office can accept any paper, motion, or other filing by the Appellant. It is possible to file the Appellant's Case Summary after the thirty 30-day deadline without forfeiting your right to appeal. It is preferable to file the Appellant's Case Summary within the thirty 30-day deadline because it must be filed before any other documents are submitted to the Court.

Q. What is a Proof of Service or Certificate of Service?

- A.** Any document that is filed with the Court must be served on the other party or the attorney for the other party. The proof of service (also called a certificate of service) indicates to whom you gave the document, on what date that document was delivered, and how you delivered it (by mail or by handing it to someone personally). All filings with the Court must be accompanied by a proof of service or certificate of service. Failure to serve documents on the other party may result in dismissal of your appeal.

Q. When are my documents deemed filed?

- A.** Documents are deemed filed in several ways. A document can be brought physically to the Clerk's office, and, if it is acceptable for filing, it will be file-stamped the date the document is brought into the office. Documents can also be mailed to the Clerk's office and will be deemed filed as of the date of the post-mark. The documents do not have to be sent certified mail. You should use certified mail if you would like to have proof that your documents were received by the Clerk's office.

Q. If my due date for a filing falls on a weekend or holiday, what happens?

- A.** If the due date falls on a weekend or holiday, the document to be filed is due on the next business day the Clerk's office is open. Therefore, if the due date for your brief falls on a Saturday, the brief is due the following Monday.

Q. What happens after I file my Appellant's Case Summary?

- A.** The next step in the process is that the clerk of the trial court must go over his or her files to make sure all of the documents are there, and then issue a Notice of Completion of Clerk's Record. This must be done within 30 days of the filing of the Notice of Appeal. If you requested a transcript, the court reporter has 90 days from the filing of the Notice of Appeal to complete the transcript. After the court reporter completes the transcript he or she notifies the trial court clerk, and then the clerk issues a Notice of Completion of Transcript. It is your responsibility to make sure these documents are filed.

Q. How can I check to see if the Notice of Completion of Clerk's Record or Notice of Completion of Transcript has been completed?

- A.** You can check by contacting our office at 317-232-1931 or by viewing our on-line docket on the Internet. The on-line docket can be accessed at the following web address: <http://www.IN.gov/judiciary/docket>.

Q. What do I do if the trial court clerk does not issue the Notice of Completion of Clerk's Record or Notice of Completion of Transcript?

- A.** If the clerk of the trial court does not issue either the Notice of Completion of Clerk's Record or Notice of Completion of Transcript, the Appellant can file a Motion to Compel. This motion asks the Appeals Court to order the trial court clerk to issue the completion. The Motion to Compel must be filed no later than fifteen (15) days after the Notice of Completion of Clerk's Record or Notice of Completion of Transcript was due.

Q. What is a brief?

- A.** A brief is a document prepared by each of the parties explaining to the Court what happened in the trial court, and why each party believes the decision should be changed or remain the same. The brief is a party's chance to argue its case to the judges or justices. Because most cases do not have an oral argument, the brief is very important. There are very specific requirements for the form and contents of a brief. [See Appellate Rules 43 through 46.](#)

Q. When do I file my brief?

- A.** The Appellant's Brief (the brief by the party who is appealing) is due thirty (30) days from the issuance of the Notice of Completion of Clerk's Record if no Transcript was requested, or thirty (30) days from the issuance of the Notice of Completion of Transcript.

Q. What do I do if I can't file my brief within the 30 days?

- A.** If you cannot file your brief within the required thirty (30) days, you can file a Motion for Extension of Time to File Brief. In this motion, a party explains to the Court why it needs additional time and for how long. Generally, Motions for Extension of Time ask for thirty days to prepare the brief. The Motion for Extension of Time must be filed seven (7) days before the due date of the brief. If the case involves issues of child custody, support, visitation, paternity, adoption, determination if a child is in need of services, and/or termination of parental rights, the Court will not usually grant extensions of time.

Q. What is an Appendix and when do I file it?

- A.** An Appendix is a document prepared by the party initiating an appeal (Appellant). It includes documents filed by the parties in the trial court as well as judgments or orders issued by the judge in the trial court. [Appellate Rules 50 and 51](#) explain in detail what documents need to be in the Appendix. The Appendix is filed when the Appellant files the Appellant's brief. The Appellee can also file an Appendix if he or she feels the materials in the Appellant's Appendix are not enough for the Court to make a decision. The Appendix will have the same color cover as the party filing the brief. For example, when the Appellant files the Appendix, the cover will be blue.

Q. What if I file my Appendix and then discover I left something out?

- A.** Any party may file a supplemental Appendix without permission from the Court until the final Appellant's Reply Brief is filed or due. The supplemental Appendix should be prepared under the same rules as the regular Appendix and should not have any items that are contained in any of the other Appendices filed.

Q. How does the Transcript get to the Court of Appeals?

- A.** In criminal appeals, the Clerk's office contacts the trial court clerk and requests that the transcript be sent after the Appellant has filed the Appellant's brief. The trial court clerk will send the transcript and it will be held in the Clerk's office until the case is ready to go to the court. Each of the parties can check out the transcript from our office during his or her briefing time to use to prepare the brief. In civil appeals, the Clerk's office contacts the trial court clerk for the transcript after the case is fully briefed and ready to go to the Court. This means that if a party wishes to check out the transcript in a civil appeal, they must contact the trial court clerk. The trial court clerk may have procedures in place for how to check out the transcript, so you should contact the trial court clerk directly to determine that procedure.

Q. Can I present new evidence to the Court of Appeals or Supreme Court that was not given to the trial court?

- A.** No. Parties in an appeal are not permitted to offer any evidence that was not presented in the trial court. The Court decides the case strictly on the basis of the record in the trial court.

Q. What happens after the Appellant submits her or his brief?

- A.** The Appellee has thirty (30) days from the filing of the Appellant's Brief to file its answer brief. This brief is the chance for the winning party in the trial court to respond to the issues presented by the Appellant in its brief.

Q. Does the party filing the appeal have a chance to respond to the Appellee's Brief?

- A.** Yes. The Appellant may file a reply brief. This brief allows the Appellant the opportunity to respond to the arguments made by the Appellee. The brief is limited to issues that were raised in the Appellant's Brief or a response to issues raised in the Appellee's Brief. The Appellant cannot bring up new issues in the Reply Brief that were not presented in the Appellant's Brief.

Q. How long will it take for the Court to make a decision?

- A.** It generally takes about six months to have the Clerk's Record and/or Transcript prepared and for each side to submit a brief. The case can take less time if a Transcript is not requested and/or if the parties choose not to submit all of the briefs. Once the case is fully briefed—that is, when all the briefs have been filed with the Clerk's office—it generally takes two to six months for an opinion or memorandum decision to be issued.

Q. What can I do if I do not like the decision of the Court of Appeals?

- A.** You have two options. First, you can file a Petition for Rehearing, which asks the Court of Appeals to review your case again. This petition would need to explain why, based on previous cases, statutes, or policy, you think the decision of the Court of Appeals was made in error. You can also file a Petition to Transfer to the Indiana Supreme Court. A Petition to Transfer requires an additional filing fee of \$125. This petition asks the Supreme Court to look at the decision of the trial court and Court of Appeals. The Indiana Supreme Court has the discretion to decide which cases it will consider. Thus, when a party files a Petition to Transfer, the Court may decide not to hear the case. It is not automatically accepted.

Q. What happens if my Petition to Transfer is denied? Can I appeal to the federal courts?

- A.** Once the Indiana Supreme Court issues an opinion, the losing party may attempt to take the case to the United States Supreme Court. There are time limits and filing requirements for this process. Please contact the clerk's office for the United States Supreme Court at 202-479-3014 for information on how to file documents. The U.S. Supreme Court takes an extremely limited amount of cases each year.



GENERAL INFORMATION ABOUT CLERK/INTERNET RESOURCES

The Clerk's office is open 8:00 a.m. to 5:00 p.m., Monday through Friday, except on State holidays. All documents for the Court of Appeals and Supreme Court must be filed with the Clerk's office, either by mail or hand-delivery. We do not accept filings by fax or email. Documents are file-stamped the date they are hand-delivered or the post-mark date of mailing. Documents may be hand-delivered to the Indiana State Police at their State House desk from 5:00 p.m. until 12:00 a.m. weekdays. This type of filing is called "Rotunda filing," and documents filed this way will be file-marked the following business day with the date the documents were hand-delivered. Rotunda filings can be made at the State Police desk at the North (Ohio Street) entrance to the State House. The officer on duty has receipt forms to be completed upon leaving documents.

Address

Clerk of the Supreme Court, Court of Appeals, and Tax Court
200 West Washington Street
217 State House
Indianapolis, IN 46204
Phone: 317.232.1930
Fax: 317.232.8365

Court/Clerk Websites

- Indiana Appellate Rules/Sample Forms.
<http://www.in.gov/judiciary/rules/appellate/index.html>.
- The Clerk's on-line docket.
<http://hostpub.courts.state.in.us/HostPublisher/ISC3RUS/ISC2menu.jsp>.

Indiana Statutes and Constitution

- The Indiana Administrative Code.
<http://www.in.gov/legislative/iac>
- The Indiana Code (statutes).
<http://www.in.gov/legislative/ic/code/>
- The Indiana Constitution.
<http://www.in.gov/legislative/ic/code/const/>

Legal Research Websites

- Barger on Legal Writing – *Tips for writing appellate briefs.*
<http://www.ualr.edu/~cmbarger/persuasive.html>
- Cornell Law School, Legal Information Institute – *Provides information about legal topics as well as links to state statutes and state constitutions.*
<http://www.law.cornell.edu>
- Duke University – Study in Appellate Advocacy – *A Guide to Briefs.*
<http://www.law.duke.edu/curriculum/appellateadvocacy/guide.html>
- Find Law – *Provides information about legal topics by subject matter and jurisdiction.*
<http://www.findlaw.com>
- LLRX.com – *Provides articles on specific legal topics and links to resources.*
<http://www.llrx.com>
- The Virtual Chase: Legal Research on the Internet – *Provides links to various resources.*
<http://www.virtualchase.com>



TYPES OF APPEALS

Regular Direct Appeals

A regular direct appeal is an appeal taken directly from the trial court to the Court of Appeals or Supreme Court without going through any intervening court or agency. Usually they are appeals from final decisions made in the county trial courts.

In Indiana, after the trial court has entered its final decision, a party begins a regular direct appeal by filing a Notice of Appeal in the trial court clerk's office. After the Notice of Appeal is filed, the county clerk's office begins to prepare the Clerk's Record, and the court reporter may begin to transcribe any hearings or trials in the case. The Clerk's Record is made up of all pleadings and orders filed during the trial court's consideration of the case. Regular direct appeals can be criminal or civil.

Interlocutory Appeals

An interlocutory appeal is an appeal from an order or a decision issued by the trial court before the case is finished. It usually involves an order relating to evidence or a procedural matter. There are two types of interlocutory appeals: automatic and discretionary. Interlocutory appeals can be taken in either criminal or civil cases, and they can only be filed with the Court of Appeals.

Automatic interlocutory appeals can be filed when one of the conditions is met under Appellate Rule 14. It is called "automatic" because jurisdiction can be assumed by the Court of Appeals without a motion. There are nine specific types of orders which may be the basis of an automatic interlocutory appeal [See Appellate Rule 14(A)].

Discretionary interlocutory appeals can be accepted only if a party files a motion in the trial court pursuant to [Appellate Rule 14\(B\)](#). If that motion is granted in the trial court, a subsequent motion must then be filed in the Court of Appeals. The Court of Appeals will then decide if it will take the case. If the case is accepted by the Court of Appeals, the Appellant must file a Notice of Appeal within fifteen (15) days of the order granting the interlocutory appeal. After the Notice of Appeal has been filed, the appeal is treated just like any other appeal and will have the same deadlines.

Post Conviction Appeals

Post conviction (PC) appeals are appeals from criminal cases in which no direct appeal was previously filed or the direct appeal has already been completed. By filing a post conviction appeal, an incarcerated appellant is seeking relief from his sentence or relief from infringement upon his Constitutional rights. All post conviction appeals originate in the Court of Appeals unless it is a death penalty case. In that instance, the post conviction appeal goes directly to the Supreme Court.

Expedited Appeals

Expedited appeals are cases in which the appellant is appealing the decision of an administrative law judge or an agency board such as the Review Board of the Indiana Department of Workforce Development, the Worker's Compensation Board, the Indiana Utility Regulatory Commission, or the Indiana Civil Rights Commission. All expedited appeals originate in the Court of Appeals.

IV

INITIATION OF AN APPEAL

Notice of Appeal

Pursuant to [Appellate Rule 9](#), a party initiates an appeal by filing a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of a Final Judgment or a ruling on a Motion to Correct Error. Appellants may use the sample form (Form App. R. 9-1) or recreate the form on their own as long as the same information is contained in the Notice. The attorney/pro-se appellant must sign and date the Notice of Appeal and prepare a certificate of service.



Indiana Court of Appeals Courtroom.



Indiana Supreme Court Courtroom.

Opening a Case in the Court of Appeals

Once the Notice of Appeal is timely filed with the trial court clerk, the appellant must provide a copy of the Notice of Appeal to the Clerk of the Courts for a case number to be assigned. A filing fee of \$250.00 must be paid at this time or the Appellant must provide proof that the trial court granted her or him pauper status.

The appellant has thirty (30) days after filing the Notice of Appeal in the trial court to file the Appellant's Case Summary (Form App. 15-1) with the Clerk of the Courts. The Appellant's Case Summary must have two items stapled to the back of the document before it can be filed. The attachments should be: (1) a file-stamped copy of the Notice of Appeal and (2) a copy of the order or judgment that is being appealed. In addition, the appellant must attach a copy of the Motion to Correct Error if one was filed in the trial court.

The Appellant's Case Summary serves as the appearance for the party initiating a case. No other items can be filed by the attorney or Pro Se litigant until the Appellant's Case Summary is filed. The Appellate Rules state that the Case Summary should be filed within thirty (30) days of filing of the Notice of Appeal in the trial court. The Court of Appeals and Supreme Court do not consider the Case Summary a jurisdictional matter, so a Case Summary may be accepted for filing after the thirty days has passed so long as it is the first item filed by the appellant.

Appellants may duplicate App. Form 15-1 or create their own form on their word processor as long as the Case Summary contains all the information required by the Court. The appellant must staple the appropriate attachments to all copies of the Case Summary that are being filed with the Court.



MOTIONS

A motion is the procedure by which a party asks the Court to do something or to permit one of the parties to do something. Parties filing a motion need to be specific about what they want the Court to do and give reasons why the Court should grant their request.

All motions must comply with the requirements of [Appellate Rule 34](#) and any other applicable Appellate Rule. Motions should be typewritten or neatly printed and double-spaced. If typed, motions should be in 12-point font. There is a ten (10) page limit on motions (or 4200 words). A certificate of service indicating how and when you served the other party must accompany all motions.

The following are examples of motions that are filed with the Court.

Motion for Extensions of Time ([Appellate Rule 35](#))

Motions for extensions of time can be filed in most cases (except juvenile cases, cases involving child custody, and others) when the brief is due. Motions for extension of time should be filed at least seven (7) days before the expiration of time unless the party filing the motion was not then aware of the facts on which the motion is based. No motion for extension of time shall be filed after the original deadline has expired.

The motion for extension of time must include:

- Date of the judgment or order being appealed
- Date any motion to correct errors was ruled on or denied
- Date the Notice of Appeal was filed
- Amount of time requested and why the additional time is needed
- How you determined the amount of time you requested
- The exact due date being requested

Motion to Compel ([Appellate Rules 10, 11](#))

If the trial court clerk fails to file the Notice of Completion of the Clerk's Record or the Notice of Completion of the Transcript, it is the obligation of the Appellant to file a Motion to Compel the trial court clerk to file the Notice. This motion is due fifteen (15) days after the due date for the Record or Transcript Completion.

Motion to Transmit Record From Prior Appeal

In some cases, parties to an appeal may wish to have the record/transcript from their previous appeal transferred to the new appeal for use as an exhibit. This happens often in post conviction cases. To accomplish this, a party may file a motion to transmit the record or transcript from the prior appeal. Parties may do this at any time during the appeal but it is preferable for parties to do so prior to or at the same time their brief is filed.

Additional Authorities ([Appellate Rule 48](#))

When pertinent and significant authorities come to the attention of a party after the party's brief or petition has been filed, or after oral argument but before the decision, a party may promptly file with the Clerk a notice of those authorities setting for the citations.

Motion to File an Interlocutory Appeal ([Appellate Rule 14](#))

There are two types of interlocutory appeals: automatic and discretionary. Discretionary appeals cannot be filed without permission from the trial court and the Court of Appeals, which may accept jurisdiction from the trial court at its own discretion.

Automatic interlocutory appeals are very similar to direct appeals. The Notice of Appeal must be filed within thirty (30) days of the order or judgment being appealed.

In discretionary interlocutory appeals, before a motion to file an interlocutory appeal can be filed in the Court of Appeals Clerk's Office, the trial court must certify an issue for interlocutory appeal. The appellant has thirty (30) days from the certification from the trial court within which to file a motion to file an interlocutory appeal with the Court of Appeals. The motion should be sent to the Court of Appeals Clerk's Office and must be accompanied by an Appellant's Case Summary.

If the Court accepts jurisdiction, the appellant shall file a Notice of Appeal with the trial court within fifteen (15) days of the Court of Appeals order accepting jurisdiction over the interlocutory appeal. The appellant shall also comply with [Appellate Rule 9\(E\)](#) by submitting the file-stamped Notice of Appeal and filing fee to the Clerk of the Court of Appeals.

Motion for Oral Argument ([Appellate Rule 52](#))

At any time, but no later than seven (7) days after the filing of the Appellant's Reply Brief, a Reply Brief in Transfer or a Response in Rehearing, any litigant or his or her attorney may request that the court hear arguments regarding the issues on appeal. A party makes its request by filing a motion for oral argument. These requests are granted at the Court's discretion. If oral argument is granted, each party has to file an acknowledgment of the order setting oral argument with the Clerk of the Courts, no later than fifteen (15) days after service of the order.

Motion to Consolidate Appeals ([Appellate Rule 38](#))

Multiple parties or issues may be consolidated for the purpose of appeal upon the filing and granting of a motion to consolidate appeals. The Motion should be filed as early in the process as possible to enable the court to rule on the Motion and help facilitate the process of filing briefs in a timely manner.

Motion to File Oversized Documents/Briefs

The Court has imposed word and page limitations for a number of different filings. See [Appellate Rule 44\(D&E\)](#) for more information. If a party exceeds the 30-page limitation for their brief, but the brief contains less than 14,000 words, then the party must sign a verification of word count. If a party wishes to exceed the page and word limits, a Motion must be filed with the Court prior to the filing of the document/brief. The Appellate Rules do not give a deadline to file this document; however, it needs to be filed prior to the deadline for filing the document/brief and within enough time for the Court to rule on the Motion before the deadline for filing.

The other party may file a response or opposition to a Motion within ten (10) days of the filing of the motion. Any response or opposition must conform to the Appellate Rules regarding motions. The response or opposition is limited to five (5) pages or 2,100 words.

The party who filed the motion may not file a reply to the response or opposition without leave of the Court. Any motion asking for permission to file a reply, along with the reply itself, must be submitted to the Court within five (5) days of the response or opposition.

Motion to Stay ([Appellate Rule 39](#))

In order to stay a judgment from the trial court, a litigant must ask the trial court to stay its order. If the trial court denies the request, then (and only then) a motion can be filed with the Court of Appeals to stay enforcement of the order. If a Motion is filed in the Court of Appeals, you must attach copies of all the documents listed in [Appellate Rule 39](#).



BRIEFS

Appellant's Brief

A brief is where you make your argument to the Court explaining why you think the decision the trial court made was wrong. The brief is the most important document you will file in your case. The focus of the brief should be on the law and the facts. The brief should explain how the law should apply to the facts. It should not be used to personally attack the opposing party or the judge who made the decision. The purpose of the brief is to convince the appellate court that the trial court made a specific error or errors in law, fact, or procedure that affected the outcome of your case.

The Appellant's Brief must be filed no later than thirty (30) days after: (1) the date the trial court clerk or Administrative Agency issues its Notice of Completion of Clerk's Record if the notice reports that the Transcript is complete or that no Transcript has been requested; **or** (2) in all other cases, the date the trial court or Administrative Agency issues its Notice of Completion of Transcript.

The brief starts with a cover sheet, and is followed by the table of contents and the table of authorities. There is a sample cover sheet in the back of this guide. The table of contents lists the sections of the brief and the page number on which each section begins. The table of authorities lists the cases referred to (in alphabetical order), statutes, or other authorities used in the brief, and the page number where those items can be found in the brief. The brief must also contain a copy of the order or judgment being appealed. Generally, this is placed at the back of the brief after the conclusion.

You should attempt to conform to the rules and be as organized as possible. The following are the main parts of the brief and a brief description what the section should cover.

Statement of Issues

- This section describes each of the issues the party filing the appeal wishes to present to the Court. There can be several issues, or there can be just one. This section is very important, and you should take your time formulating the issues you will be presenting to the Court.
- As a general rule, you should have no more than two or three issues to present to the Court.
- The clearest way to write issues is to begin with the general area of law at issue, proceed to more specific areas of the law, and then incorporate the facts of your case and policies that should be followed.¹

Statement of Case

- The statement must "describe the nature of the case, the course of the proceedings relevant to the issues presented for review," and how the trial court addressed these issues.²
- The purpose of this section is to inform the Court about the legal steps taken in the controversy between the two parties. This includes explaining, concisely, the history of the case in chronological order. Let the Court know what happened to the case in the trial court.

Statement of Facts

- State the facts relevant to the issues you have presented and the arguments you have made. The facts should be chronological and should not list what each person said word for word.
- Do not repeat the material you already covered in the statement of the case section of the brief.

¹ This idea was suggested by Professor Henry Weihofen. See Henry Weihofen, *Legal Writing Style*, 246-59 (2d ed. 1980).

² Appellate Rule 46(A)(5).

- When you refer to the Appendix or the Transcript, make sure you note which page you are referencing. If you were quoting a statement made by a witness, for example, you would write the quote in the brief followed by the page number in the Transcript the quote can be found on. There are abbreviations listed in Appellate Rule 22. To cite to a page in the transcript, write “Tr. p. 231.”
- It is only proper to refer to facts that were presented in the trial court or administrative agency.

Summary of Argument

- The summary should contain a succinct, clear, and accurate statement of the arguments you make in the Argument section of the brief.
- Put yourself in the judges' shoes, and let them know what the major arguments are at a glance. Judges have to read a lot of documents to decide a case. They often look to this section to give them an idea about what the arguments are prior to reading the rest of the brief. They should be able to figure out what the case is about by reading this section.

Argument

- This section covers the reasons why the party feels the trial court made a mistake.
- You must make arguments and back up those arguments with case law, statutes, etc. that support your argument.
- Be clear, and analyze the law in a fair way.
- Incorporate the facts of the case and analyze those facts with the applicable law.
- Put your strongest arguments first.
- Give each argument a heading.
- Organize, make sure the arguments are easy to read and understand.

Conclusion

- The conclusion should include a precise statement of the relief sought.
- Tell the Court exactly what you are asking it to do. This statement should be very short and to the point.
- After the conclusion, put a line for your signature, and sign the brief.

Appellee's Brief

The Appellee's Brief is due thirty (30) days after the filing of the Appellant's Brief. This brief is a response to the brief filed by the party who is appealing. This is the chance to respond to the arguments made by the Appellant and explain why the decision in the trial court was correct. The Appellee's Brief can omit the statement of issues, the statement of the case, and the statement of the facts, if the Appellee agrees with the statements made by the Appellant. See Appellate Rule 46(B). Aside from omitting portions the Appellee agrees with, the Brief should meet the same requirements as the Appellant's Brief. The Appellee should refer to cases, statutes, or other materials that support the decision of the trial court.

Appellant's Reply Brief

The Appellant's Reply Brief is filed fifteen (15) days after the filing of the Appellee's Brief. The Appellant does not have to file a Reply Brief. It is only necessary if the Appellant feels he or she should respond to the Appellee's Brief. No new issues can be raised in the Reply Brief that were not presented in the Appellant's Brief, and you should not repeat what was said in that brief. Therefore, it is important to make sure the Appellant's Brief covers everything you want presented to the Court.

Checklist for Briefs

Requirement and Rule	✓
Paper size of 8 ½ x 11, white paper (App. R. 43B)	
Typeface shall be 12-point or larger (App. R. 43D)	
All text must be double spaced (App. R. 43E)	
Use only one side of the paper (App. R. 43C)	
Front Cover must include: <ul style="list-style-type: none"> • Court name (Court of Appeals or Supreme Court) • Case number on appeal • Trial court cause number and trial court judge's name • Case name (the names of the parties involved) • Title of the document (i.e. Appellant's Brief) • Name, address and telephone numbers of the person submitting the brief 	
Color cover of the Briefs in Court of Appeals (App. R. 43H): <ul style="list-style-type: none"> • Appellant's Brief is blue • Appellee's Brief is red • Appellant's Reply Brief is gray See Rule 43(H) for other cover colors.	
The table of authorities should go in the following order: <ul style="list-style-type: none"> • cases listed in alphabetical order • constitutional citations • statutes, listed in ascending order by number 	
All pages must be numbered at the bottom (App. R. 43F)	
The brief should be bound on the left margin. The binding should allow the document to lie flat when it is opened (App. R. 43J).	
Page limits (App. R. 44D): <ul style="list-style-type: none"> • Appellant's Brief - 30 pages or 14,000 words • Appellee's Brief - 30 pages or 14,000 words • Appellant's Reply Brief - 15 pages or 7,000 words 	
If brief is over page limit, but under word count, it must have a certificate of word count (App. R. 44F)	
The order or judgment being appealed must be placed in the brief [App. R. 46A(10)]	
Brief signed	
Certificate of Service (App. R. 24D)	
Floppy disk containing brief given to Appellate Court Clerk (App. R. 43K)	
Serve the other party a copy of the brief	

VII

APPENDICES

The Appendix is a compilation of motions and pleadings that were filed in the trial court. The Appendix is used by the Court to help it learn what happened in the trial court, and assists the Court in reaching a decision. In civil cases and cases from administrative agencies, the Court only wants parts of the record on appeal that are necessary for the Court to decide the case. The Appellate Rules explain what documents are necessary in these types of cases. Similarly, in criminal cases the Rules detail which documents are required in the Appendix. The rules also list the order in which the documents should appear in the Appendix.

You can make copies of your documents you have in your personal files, or you can contact the trial court clerk to get copies of motions and pleadings. The trial court clerk may charge you to make copies. It might be helpful to check the Chronological Case Summary from the trial court to determine if you have copies of all of the motions and pleadings necessary to complete your appendix. You can only put documents in your appendix that were filed in the trial court by either of the parties or orders/judgments issued by the trial court judge.

The pages of the Appendix should be numbered consecutively at the bottom. In addition to the record from the trial court, the Appendix must also have a Table of Contents and a Verification of Accuracy.

The Table of Contents needs to list the documents in the Appendix and on which page number those documents start.

The Verification of Accuracy is a statement by the party that the documents in the Appendix are the accurate copies of documents from the trial court. The Verification of Accuracy should read something like, "I verify under penalties of perjury that the documents in this Appendix are accurate copies of parts of the Record on Appeal." After

the Verification of Accuracy, the party preparing the document should sign his or her name. The Verification should be the last document in the back of the Appendix.

The Appendix can have no more than 250 pages bound into one volume. Therefore, if you have more than 250 pages, the 251st page would need to start in the second volume of the Appendix. Each volume of the Appendix needs to be bound along the left. Each volume should have a Table of Contents for the entire Appendix. If you have more than one volume to the Appendix, each volume should list how many volumes there are and which of the volumes that particular one is. An example would be to say volume 1 of 3 volumes. The number of volumes should be put on the front cover page. There is a sample cover page in the back of this guide.

The Appendix is filed when a party files its brief. The Appendix should have a cover that lists all of the information as the cover of the brief, and it will be the same color as the Brief. Therefore, when the Appellant files its Appendix the color will be blue.

The Appellee can also file an appendix if he or she feels the materials in the Appellant's Appendix are not sufficient for the Court to make a decision. Any party may file a Supplemental Appendix without permission from the Court until the final Appellant's Reply Brief is filed. The Supplemental Appendix should be prepared under the same rules as the regular Appendix and should not have any items that are contained in any of the other Appendices filed.

Checklist for Civil Appendix

Requirements [See App. R. 50(A) & 51]	✓
Table of Contents	
Copies shall be 8 ½ x 11 inch white paper	
All pages should be numbered at the bottom consecutively	
Bound separate from the brief, and bound along the left side in book or pamphlet form	
Front Cover must include: <ul style="list-style-type: none"> • Court name (Court of Appeals or Supreme Court) • Case number in Court of Appeals • Trial court cause number and trial court judge's name • Case name (the names of the parties involved) • Title of the document (i.e. Appellant's Appendix) • Name, address and telephone numbers of the person submitting the brief 	
Color of cover: <ul style="list-style-type: none"> • Appellant's Appendix – blue • Appellee's Appendix – red 	
Chronological Case Summary from trial court or administrative agency	
Judgment being appealed	
Jury verdict (if applicable)	
Any instruction not included in Appellant's Brief or the transcript of the instruction when arguing about the instruction or refusal to give an instruction	
Portion of transcript that contains the rationale for the trial court or administrative agency's decision	
Pleadings or other documents from the trial court or administrative agency record that are necessary	
No more than 250 pages in each volume	
Verification Statement [see A.R. 50(i)]	

Checklist for Criminal Appendix

Requirements [see App. R. 50(B) & 51]	✓
Table of Contents	
Copies shall be 8 ½ x 11 inch white paper	
All pages should be numbered at the bottom consecutively	
Bound separate from the brief, and bound along the left side in book or pamphlet form	
Front Cover must include: <ul style="list-style-type: none"> • Court name (Court of Appeal or Supreme Court) • Case number • Trial court cause number and trial court judge's name • Case name (the names of the parties involved) • Title of the document (i.e. Appellant's Appendix) • Name, address and telephone numbers of the person submitting the brief 	
Color of cover: <ul style="list-style-type: none"> • Appellant's Appendix – blue • Appellee's Appendix – red 	
Clerk's Record	
Chronological Case Summary	
Portion of transcript that contains the rationale for the trial court's decision	
Pleadings or other documents from the trial court record that are necessary	
Any short excerpts or pictures from the record that are important for consideration of the issues raised in the brief	
Any instruction not included in Appellant's Brief or the transcript of the instruction when arguing about the instruction or refusal to give an instruction	
Any record material relied on in the brief but not submitted in the transcript	
Verification Statement [see A.R. 50(i)]	



PETITIONS FOR REHEARING OR TRANSFER

Petition for Rehearing (Appellate Rule 54)

A losing party to an appeal may file a Petition for Rehearing. This petition asks the Court of Appeals to reconsider its decision. Petitions for Rehearing in the Court of Appeals must be filed within thirty (30) days of the Court's opinion. No extensions of time are allowed for a Petition for Rehearing. Although a Petition to Transfer can be filed following the Court's denial of a Petition for Rehearing, a Petition for Rehearing cannot be filed after a Petition to Transfer to the Supreme Court is denied. There are no additional filing fees for Petitions for Rehearing.

Although called a Petition for Rehearing, the document must follow the format of a brief. It must be bound along the left side and contain a Table of Contents and a Table of Authorities. The Petition must be in accordance with Appellate Rule 44 before it can be accepted for filing. The Petition for Rehearing can be no longer than 10 pages or 4,200 words. The cover must be white.

No brief in response to a Petition for Rehearing is required unless requested by the Court. However, any party may file a response. A brief in response to the Petition shall be filed no later than fifteen (15) days after the Petition is filed or fifteen (15) days after the Court issues an order requesting a response. Rule 25(C), which provides a three-day extension for service by mail, may extend the due date; however, no other extension of time will be granted. The Brief in Response to Rehearing can be no longer than 10 pages or 4,200 words, and its cover must also be white. Any brief over the page limit must be accompanied by a word count certificate [see Appellate Rule 44(F)]. No reply briefs are permitted.

Petition to Transfer (Appellate Rule 56)

A party may file a Petition to Transfer from an adverse decision issued by the Court of Appeals. A Petition to Transfer must be filed with the Supreme Court Clerk within thirty (30) days of the Court of Appeals opinion or denial of a Petition for Rehearing. No

extensions of time are permitted and Appellate Rule 25(C) does not extend the time to file a Petition to Transfer because of service by mail.

A Petition to Transfer must have an orange cover and meet the requirements of Appellate Rule 44. Although this is called a Petition, the document will be in the format of a brief. A \$125.00 filing fee is due at the time of filing unless the party is a governmental agency or was granted pauper status. The Petition to Transfer can be no longer than 10 pages or 4,200 words. A word count certificate must accompany any brief over the page limit [see Appellate Rule 44(F)].

A Petition to Transfer may be sought from the following adverse decisions: (1) a published opinion, (2) a not-for-publication memorandum decision, (3) an amendment or modification of a published opinion or a not-for-publication memorandum decision, or (4) an order dismissing an appeal. Any other order by the Court of Appeals shall not be considered an adverse decision for which transfer can be sought.

A party may file a brief in response to the Petition no later than twenty (20) days after the Petition is served. Appellate Rule 25(C), which provides a three-day extension for service by mail or third-party commercial carrier, may extend the due date; however, no other extensions will be granted. The Brief in Response to Petition to Transfer can be no longer than 10 pages or 4,200 words. A word count certificate must accompany any brief over the page limit [see Appellate Rule 44(F)]. The brief in response should have a yellow cover.

The party seeking transfer may file a reply brief no later than ten (10) days after a brief in response is served. Appellate Rule 25(C) may extend the filing deadline, but no other extensions will be granted. The Reply brief can be no longer than 3 pages or 1,000 words. A word count certificate must accompany any brief over the page limit [see Appellate Rule 44(F)]. The reply brief should have a tan cover.

IX ORIGINAL ACTIONS

The Indiana Supreme Court has the exclusive authority to hear original actions. An original action is a complaint against a trial court and a trial court judge, and sometimes a trial court clerk, asking the Supreme Court to direct that trial court, judge, or clerk to take certain action or refrain from taking certain action. The person bringing the original action is called the Relator; the trial court and trial court judge are called the Respondents. In an original action, a petition for a *writ* is filed. There are two types of writs that may be requested: a Writ of Mandamus and a Writ of Prohibition. A Petition for Writ of Mandamus requests the Supreme Court to order someone or a court to do something. A Petition for Writ of Prohibition requests the Supreme Court to command a trial court to refrain from taking certain action. Before bringing an original action to the Indiana Supreme Court, the Relator must have raised the jurisdictional question in the trial court in a written motion, which the trial court denied or failed to rule upon in a timely manner.

All original actions must be submitted to the Supreme Court Administrator or the Administrator's staff attorneys before filing. Once the Clerk's office has received the original action for filing, a case is opened and the documents are sent to the Supreme Court for consideration. Petitions for writs may be mailed to the Supreme Court Administrator at 315 State House, Indianapolis, Indiana 46204, or submitted in person.

The cost of filing an original action is \$125. The filing fee is waived if you have been granted pauper status in the trial court. If you were granted pauper status, send a copy of the order granting pauper status with your petition. All filings must have an original and five copies. The documents must be served on the Respondent and all interested parties. Please carefully review the Rules of Procedure for Original Actions prior to submitting a petition for a writ to the Indiana Supreme Court. The Rules are located in the Indiana Rules of Court book, or can be accessed at the Court's website: http://www.in.gov/judiciary/rules/orig_act/index.html.



X

DEADLINES/ NUMBER OF COPIES

Deadlines.

Document	Deadline
Notice of Appeal	30 days from date of final judgment/order 30 days after entry of interlocutory order that is appealable by right 15 days after the court accepts jurisdiction over a discretionary interlocutory appeal (The Notice of Appeal is filed in trial court, with a copy sent to the Clerk's Office when the appellate filing fee is paid)
Appellant's Case Summary	30 days from date Notice of Appeal filed
Notice of Completion of Clerk's Record	30 days from date Notice of Appeal filed
Notice of Completion of Transcript	Court reporter has 90 days from the date of the Notice of Appeal to prepare the transcript, and the Trial Court Clerk must file the Notice of Completion 5 days after the court reporter files the transcript with the Trial Court Clerk.
Appellee's Appearance	30 days from date Appellant's Case Summary filed
Motion for Extension of Time to file Brief	At least 7 days before the time for filing the brief
Motion to Compel	Not later than 15 days after the Notice of Completion of Clerk's Record/Transcript was due to be filed
Appellant's Brief and Appendix	30 days from date Notice of Completion of Transcript filed (or, if no transcript, 30 days from the date Notice of Completion of Clerk's Record filed)
Appellee's Brief	30 days from date Appellant's Brief filed (plus 3 extra days if Appellant's Brief served by mail)
Reply Brief	15 days from the date the Appellee's Brief filed (plus 3 extra days if Appellee's Brief served by mail)
Petition for Rehearing	30 days from the opinion of the Court of Appeals
Petition to Transfer	30 days from the opinion of the Court of Appeals or 30 days from the denial of a Petition for Rehearing
Brief in Response to Petition for Rehearing	15 days from date of Petition for Rehearing (plus 3 extra days if Petition for Rehearing served by mail)
Brief in Response to Petition to Transfer	20 days from date of Petition to Transfer (plus 3 extra days if Petition to Transfer served by mail)
Reply Brief in Support of Petition to Transfer	10 days from date Brief in Response to Transfer is filed (plus 3 extra days if Brief in Response served by mail)

Number of Copies.

Document	Number of Copies
Appellant's Case Summary and Notice of Appearance	Original and 1 copy
Motion for Extension of Time	Original and 1 copy
Motion to Withdraw the Record	Original and 1 copy
Motion to Withdraw Appearance	Original and 1 copy
Motion to File Oversized Document	Original and 1 copy
All other motions and supporting documents, all responses, etc.	Original and 5 copies
Briefs	Original and 8 copies
Appendix	1 copy
Petition to Transfer, Petition for Rehearing, Petition for Review	Original and 8 copies
Additional Authorities	Original and 8 copies
Authorization in Forma Pauperis (court authorization or affidavit)	Original and 1 copy



GLOSSARY OF TERMS

Adversary – The opponent in a case or the other party to a case.

Appeal – A review by an appellate court of what happened in a trial court or administrative agency to determine if errors occurred and if the errors are significant enough to require some form of relief to the party that raised the error or errors.

Appellant – The party appealing a decision. This is the party who lost in the trial court and wants the Court of Appeals to reverse or modify the judgment of the trial court.

Appellant's Brief – The initial brief. The Appellant's brief sets out the history of the case, explains to the Court of Appeals the error the trial court made in its decision, and argues why the Court should reverse that decision.

Appellant's Reply Brief – This is a brief in response to the Appellee's Brief. The brief is limited to issues that were raised in the Appellant's Brief or a response to issues raised in the Appellee's Brief.

Appellee – The party who won in the trial court. This party generally wants the Court of Appeals to agree with the decision of the trial court.

Appellee's Brief – The Appellee's response to the Appellant's brief. The Appellee's brief sets out the Appellee's argument that the trial court's decision is correct.

Appendix – A document prepared by the Appellant containing documents filed by the parties in the trial court as well as judgments or orders issued by the judge in the trial court. It is filed at the same time as the Appellant's brief. The Appellee may also file an Appendix with its brief.

Brief – A written presentation of arguments. The Appellant argues why the decision by the trial court was made in error; the Appellee argues why the trial court's decision was correct.

Certificate of Service – A statement saying how and when you served a party a document. The rules require that you send a copy of any document

or brief that you file with the court to each opposing party. This is sometimes called a Proof of Service. Both terms mean the same thing.

Citation – A reference to legal authority such as cases that have already been decided by a Court, statutes, or the state or federal constitution. This can also be a reference to the appendix or the transcript in the case.

Civil case – A case to protect the private right of a person or compel some type of solution in a dispute between parties. These cases usually involve money damages or equitable relief (e.g., injunction or specific performance).

Clerk's Record – The papers and motions filed in the trial court as well as orders issued by the judge.

Court of Appeals – The intermediate level court in Indiana. The Court of Appeals hears appeals of cases that have taken place in the trial court or administrative agencies.

Criminal case – A case dealing with a violation of Indiana's criminal laws.

Defendant – The person being sued or the person charged with a crime in a criminal case.

Docket – List of documents in a case that have been filed with the Clerk's office and the date on which they were filed.

Expedited Appeals – The court will expedite (speed up) cases involving issues of child custody, support, visitation, adoption, paternity, determination that a child is in need of services, termination of parental rights, and all other appeals entitled to priority by rule or statute.

File-stamped – A document that has the official stamp of a clerk's office indicating the date on which a document was accepted for filing.

Final Judgment – Final decision by the trial court. This judgment resolves all of the issues that were presented in the trial court or administrative agency.

Indigent – Someone who is unable to afford to pay the fees and costs related to a case. A party must make a motion in the trial court or administrative agency asking to be declared indigent. Any questions about this motion should be directed to the trial court or administrative agency.

Interlocutory Appeal – An appeal that is filed before the trial court has entered its final order in the case.

Judgment – A final appealable order in a civil or criminal case.

Jurisdiction – The authority or power the court has to act or hear a case and make a decision.

Litigants – Parties to a case. The persons involved in a lawsuit.

Lower court – The county or city court where a case starts. The proper name for this is the “trial court.”

Mandamus – A command. A party may file a petition for writ of mandamus asking the Indiana Supreme Court to order a judge or trial court to do something.

Memorandum Decision – The written decision of the court including the reasons for the decision and the facts on which the decision was based. This type of decision is binding on the parties involved; however, it cannot be cited as authority in other cases.

Motion – The procedure by which a party asks the appellate court to do something or to permit one of the parties to do something. For example, a party may ask the court for an extension of time to prepare a brief.

Movant – The party asking the court for something. This is usually done in the form of a motion to the Court.

Notice of Appeal – A document filed in the trial court that lets the court know that you intend to appeal the decision the court made. This document also asks the trial court to prepare the clerk’s record and the transcript, if necessary.

Opinion – The written, published decision of the court, including the reasons for the decision and the facts on which the decision was based.

Order – A written or oral decision by a court or administrative agency that resolves a matter and/or directs the parties to do something.

Pauper Status – A party without the financial resources to pay all of the court fees and costs, and to whom the court grants permission to proceed without paying all the fees and costs.

Plaintiff – The party who starts a lawsuit, or in criminal cases, the prosecutor acting on behalf of the State of Indiana.

Post Conviction Relief – The procedure where a defendant in a criminal case can argue that the conviction or sentence was made in violation of the Constitution, that the court which sentenced him was without the authority to do so, or that the sentence imposed exceeds the maximum sentence in the statute, among other things. A Petition for Post-Conviction Relief is filed in the trial court and the final judgment can be appealed to the Court of Appeals.

Precedent – A previously decided case that is recognized as binding on future cases that have similar facts and/or legal issues.

Pro se – A person, not represented by an attorney, who is representing himself or herself in a case.

Relator – The party in whose behalf writs are filed, issued, or ordered.

Show Cause Order – An order from the Court requiring a party to explain why a certain thing should or should not be permitted. An example would be if a Notice of Appeal was not timely filed, the Court may issue a show cause order asking the Appellant to show why the case should not be dismissed for failure to file a timely Notice of Appeal.

Stay – A court order which temporarily suspends court proceedings or the effect of a judgment. Initiating an appeal does not stay enforcement of a trial court judgment.

Supreme Court – The highest court in the State of Indiana. The Supreme Court consists of five justices. The Supreme Court hears criminal cases where the defendant was sentenced to death or life without the possibility of parole. The Court also hears all cases involving attorney admission and discipline and original actions.

Once a case has been decided by the Court of Appeals, parties may file a Petition to Transfer asking the Supreme Court to hear the case. The Court has the discretion to decide whether or not to take these cases.

Table of Authorities – A listing of all the legal cases, statutes and secondary authority used in the brief and the page(s) on which each authority was cited.

Transcript – Written version of everything that was said at the trial or hearings in the case. The transcript is prepared by the court reporter assigned to the trial court.

Trial court – The city or county court where a case starts; the court that decides the facts and law in the case.

Verification of Accuracy – A statement made by the party indicating that the documents placed in the Appendix are accurate copies from the trial court. The verification must be signed by the party or attorney.

Writ – An extraordinary remedy that can be sought from the Indiana Supreme Court. A writ can be sought to compel a person to do something or to stop doing something. Writs are usually sought to compel the trial court to perform a duty or obligation that it is required to do. This option should be used when there is no other legal remedy to solve the problem.



SAMPLE FORMS

Contents

The following forms are contained in this Adobe PDF document. These and other appellate forms are also available as separate documents—in both Adobe PDF and Microsoft Word formats—and can be accessed via the web at <http://www.in.gov/judiciary/rules/appellate/index.html> (scroll to the bottom of the page).

- Form App. R. 9-1 Notice of Appeal
- Form App. R. 9-2 Notice of Appeal from Administrative Agency
- Form App. R. 15-1 Appellant's Case Summary
- Form App. R. 40-1 Affidavit to Proceed in Forma Pauperis [Rule 40(A)]
- Form App. R. 43-1 Cover for Brief [Rule 41(I)]
- Form App. R. 51-1 Cover for Appendices [Rule 51(E)]

(Forms begin on the next page)

Form App. R. 9-1 Notice of Appeal

STATE OF INDIANA	)	IN THE _____
)	
COUNTY OF _____	)	SS: _____
	)	[insert name of administrative agency]
_____,)	
	)	CASE NO. _____
	)	[insert administrative agency number]
Plaintiff(s),)	
)	
vs.)	
)	
_____,)	
)	
Defendant(s).)	

NOTICE OF APPEAL FROM TRIAL COURT

_____, [Plaintiff or Defendant - Insert designation and name of the party appealing], _____, [by counsel or pro se -- select one], pursuant to Ind. Appellate Rule 9(A), respectfully gives notice of an appeal from the

following judgment(s) or order(s) entered by the _____: [insert the name of the court]

_____. This appeal is from [list title(s) and date(s) of appealed judgment(s) or order(s).]

_____. This appeal will be taken to [a final judgment or an interlocutory order – select one.]

the Indiana _____. [Supreme Court or Court of Appeals - select one pursuant to Ind. Appellate Rules 4&5].

Pursuant to Ind. Appellate Rule 10, the clerk of _____ [insert name of trial court]

is requested to assemble the Clerk's Record, as defined in Ind. Appellate Rule 2(E).

Pursuant to Ind. Appellate Rule 11, the court reporter of the _____ [insert name of trial court]

is requested to transcribe, certify, and file with the clerk of the _____
[insert name of trial court]

the following hearings of record, including exhibits: [designate requested portions of the transcript]:

Respectfully submitted,

[Insert Name of Attorney or pro se party]
Address
Telephone number

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the following
by _____, this _____ day of _____, 20____:
[indicate method of service]
[insert list of parties served, see Ind. Appellate Rule 9(A)(1)]

[Insert name of Attorney or pro se party]

Form App. R. 9-2 Notice Of Appeal From Administrative Agency

STATE OF INDIANA)
COUNTY OF _____) SS: _____
_____,) [insert name of administrative agency]
Claimant(s),)
vs.)
_____,)
Respondent(s).)

CASE NO. _____
[insert administrative agency number]

NOTICE OF APPEAL FROM ADMINISTRATIVE AGENCY

_____, [Insert designation and name of the party appealing] _____, [by counsel or pro se --
select one], pursuant to Ind. Appellate Rule 9(I), respectfully gives notice of an appeal from the

following order(s) entered by the _____:
[insert the name of the administrative agency]

_____. This appeal is from
[list title(s) and date(s) of appealed order(s).]

_____. This appeal will be taken to
[a final order or an interlocutory order – select one.]

the Indiana Court of Appeals pursuant to Ind. Appellate Rule 5(C).

Pursuant to Ind. Appellate Rule 10, the _____
[insert name of administrative agency]

is requested to assemble the Clerk's Record, as defined in Ind. Appellate Rule 2(E).

Pursuant to Ind. Appellate Rule 11, the court reporter of the _____
[insert name of administrative agency]

is requested to transcribe, certify, and file with the _____
[insert name of administrative agency]

the following hearings of record, including exhibits: [designate requested portions of the transcript]:

Respectfully submitted,

[Insert Name of Attorney or pro se party]

Address

Telephone number

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the following
by _____, this _____ day of _____, 20____:
[indicate method of service]

[insert list of parties served, see Ind. Appellate Rule 9(A)(1)]

[Insert name of Attorney or pro se party]

Form #App.R. 15-1

IN THE INDIANA [SUPREME COURT/ COURT OF APPEALS/TAX COURT]
CAUSE NO. _____

NAME, _____)
[Appellant/Petitioner/) [Appeal or petition] from the _____
Plaintiff/Defendant,]) _____ Court.
)
v.) Trial Court case no.: _____
)
NAME, _____)
[Appellee/Respondent/) The Honorable _____
Plaintiff/Defendant.]) _____, Judge.

APPELLANT'S CASE SUMMARY (Appearance)

Party Information

Party or parties that filed Notice of Appeal:

Name: _____ Tel. No.: _____ (Only if unrepresented by counsel)
Address: _____

Attorney or attorneys representing party filing notice of appeal:

Name: _____ Attorney # _____
Address: _____
Tel. No.: _____ Fax No.: _____ E-Mail: _____

Requesting service of orders and opinions of the Court by FAX: Yes ☐ 1 No ☐ 2

In forma pauperis: Yes [] No [] (if yes, attach proof of appointment or proof on indigency).

Trial Information

Date case commenced: _____

Date of Judgment/order: _____ (Attach copy of judgment or order appealed from including findings and conclusions (civil) and sentencing order (criminal))

Check the appropriate line(s) to show the ruling being appealed:

- | | | |
|---|---|---|
| <input type="checkbox"/> 3 Administrative ruling | <input type="checkbox"/> 4 Injunction | <input type="checkbox"/> 5 (Judgment notwithstanding the verdict) |
| <input type="checkbox"/> 6 declaratory judgment | <input type="checkbox"/> 7 Judgment (bench trial) | <input type="checkbox"/> 8 Judgment (probation revocation) |
| <input type="checkbox"/> 9 Directed verdict | <input type="checkbox"/> 10 Judgment (guilty plea) | <input type="checkbox"/> 11 Summary judgment |
| <input type="checkbox"/> 12 Dismissed | <input type="checkbox"/> 13 Judgment (jury verdict) | |
| <input type="checkbox"/> 14 Other (specify) _____ | | |

Is this a final judgment as to all claims and all parties? ☐ 15 Yes ☐ 16 No

If no, state the basis on which the judgment/order is immediately appealable.

T.R. 54(B) ☐ 17 App.R. 14(A)(1-9) ☐ 18 App.R. 14(B) ☐ 19

Check the appropriate line(s) best describing the nature of the case:

- | | | |
|--|--|--|
| <input type="checkbox"/> 20 Attorney's fees | <input type="checkbox"/> 34 Education law | <input type="checkbox"/> 49 Professional malpractice |
| <input type="checkbox"/> 21 Child custody/support | <input type="checkbox"/> 35 Employment and labor | <input type="checkbox"/> 50 Real property rights |
| <input type="checkbox"/> 22 Civil rights | <input type="checkbox"/> 36 Environmental law | <input type="checkbox"/> 51 Sanctions |
| <input type="checkbox"/> 23 Construction law | <input type="checkbox"/> 37 Equitable distribution | <input type="checkbox"/> 52 Taxation |
| <input type="checkbox"/> 24 Contempt | <input type="checkbox"/> 38 Guardianship | <input type="checkbox"/> 53 Termination of parental rights |
| <input type="checkbox"/> 25 Contract law | <input type="checkbox"/> 39 Health care | <input type="checkbox"/> 54 Tort claims act |
| <input type="checkbox"/> 26 Corporate law | <input type="checkbox"/> 40 Insurance, auto | <input type="checkbox"/> 55 Unemployment compensation |
| <input type="checkbox"/> 27 Criminal law, Misdemeanor | <input type="checkbox"/> 41 Insurance, other | <input type="checkbox"/> 56 Unfair and deceptive practices |
| <input type="checkbox"/> 28 Criminal law, habitual felon | <input type="checkbox"/> 42 Intentional torts | <input type="checkbox"/> 57 Utilities |
| <input type="checkbox"/> 29 Criminal law, probation revocation | <input type="checkbox"/> 43 Juvenile | <input type="checkbox"/> 58 Wills, trusts, estates |
| <input type="checkbox"/> 30 Criminal law, post conviction relief | <input type="checkbox"/> 44 Landlord/tenant | <input type="checkbox"/> 59 Workers' compensation |
| Specify _____ | <input type="checkbox"/> 45 Municipal law | <input type="checkbox"/> 60 Wrongful death |
| <input type="checkbox"/> 31 Debtor/creditor rights | <input type="checkbox"/> 46 Negligence | <input type="checkbox"/> 61 Wrongful discharge |
| <input type="checkbox"/> 32 Dissolution of marriage | <input type="checkbox"/> 47 Paternity | <input type="checkbox"/> 62 Zoning/annexation |
| <input type="checkbox"/> 33 Driver's license revocation | <input type="checkbox"/> 48 Products liability | |

☐63 Other _____

Synopsis of judgment and sentence, if applicable: _____

Record Information

Date notice of appeal filed _____ (Attach copy of notice of appeal)

Date clerk's record due to be assembled: _____

Transcript information:

Court reporter responsible for preparing transcript (Name, address, telephone number): _____

Transcript ordered: Yes ☐64 No ☐65 Payment arrangements made: Yes ☐66 No ☐67

If no, reason not ordered or made: _____

Est. Transcript length _____ pp.

Transcript due date: _____

Appeal Information

A short and plain statement of the anticipated issues on appeal: _____

errors) _____ (Attach copy of motion to correct errors)

Prior appeals in this case with cause number: _____

Related appeals with Cause Number (prior, pending, or potential):

Motion for oral argument will be filed: Yes ☐68 No ☐69 Undecided ☐70

Motion for pre-appeal conference will be filed: No ☐71 Yes ☐72

Purpose: Shorten record ☐73 Appellate ADR ☐74 Refine issues ☐75 Other ☐76

If civil case, was ADR used in the trial court? Yes ☐77 No ☐78

If criminal case, status of defendant: On bond ☐79 Incarcerated ☐80

Location: _____

I certify that this case ☐does ☐does not involve issues relating to child custody, child support, child visitation, paternity, termination of parental rights, CHINS, adoption, or any other issue entitled to priority by statute.

/s/ Attorney/or pro se litigant's signature

CERTIFICATE OF SERVICE

I hereby certify that the forgoing has been served upon the following counsel of record by first class United States Mail, postage prepaid, this _____ day of _____, 20____.

**(SAMPLE AFFIDAVIT IN SUPPORT OF
MOTION TO PROCEED ON APPEAL
IN FORMA PAUPERIS)**

Form #App. R. 40-1

**IN THE
[INDICATE INDIANA COURT OF APPEALS OR GIVE NAME OF TRIAL COURT]**

NO. _____

_____	)	Appeal from the _____ Court
)	
[Insert name], Appellant,)	
	)	Trial Court Case No:
vs.)	_____
)	
	)	The Honorable _____, Judge
)	
)	
_____)	
[Insert name], Appellee.)	

**AFFIDAVIT IN SUPPORT OF MOTION TO
PROCEED ON APPEAL IN FORMA PAUPERIS**

I, _____, state, under penalties of perjury, that I am the [Appellant; Appellee] in the above-entitled case; that in support of my motion to proceed on appeal without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present on appeal are the following:

[INSERT ISSUES]

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed? ☐ Yes ☐ No

- a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.
- b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.
2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or disability payments, government benefits or other source? ☐ Yes ☐ No
- a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.
3. Do you own any cash or checking or savings account? ☐ Yes ☐ No
- a. If the answer is yes, state the total value of the items owned.
4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?
- a. If the answer is yes, describe the property and state its approximate value.
5. List the persons who are dependent upon you for support and state your relationship to those persons.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Signature

Date

[SAMPLE COVER FOR BRIEFS AND PETITIONS]App.R. 43-1

IN THE
INDIANA COURT OF APPEALS [OR SUPREME COURT]

Case No. _____ *

[NAME OF APPELLANT],	)	Appeal [or Interlocutory Appeal,
_____	)	Petition for Review]
Appellant,	)	from the _____
	)	[name of trial court or administrative
	)	agency]
)	
v.	)	Case No. _____
	)	[Trial court or administrative agency
	)	case no.]
)	
[NAME OF APPELLEE],	)	Hon. _____
_____	)	[name and title of presiding judge,
Appellee.	)	e.g., judge, special judge, judge pro
	)	tempore]

TITLE [e.g., APPELLANT'S BRIEF]

Name
Firm (if applicable)
Address
Telephone number

Attorney for [Filing Party, e.g., Appellant]**
[or Pro Se Filing Party]

*When seeking or opposing transfer or review, use Court of Appeals or Tax Court case number unless Supreme Court number has been assigned.

**Include information only about the filing party on the cover.

[SAMPLE COVER FOR APPENDICES] App.R. 51-1

IN THE INDIANA COURT OF APPEALS [OR SUPREME COURT]

Case No. _____ *

[NAME OF APPELLANT],

Appellant,

Appeal [or Interlocutory Appeal,
Petition for Review]

from the _____
[name of trial court or administrative
agency]

v.

Case No. _____
[Trial court or administrative agency
case no.]

[NAME OF APPELLEE],

Appellee.

Hon. _____
[name and title of presiding judge, e.g.
judge, special judge, judge pro tempore]

TITLE [e.g., Appellant's Appendix]

[Title should indicate if appendix is a supplemental appendix]

Volume _____ [number of volume] of _____ [total number of volumes]

Pages _____ through _____

Name

Firm (if applicable)

Address

Telephone number

Attorney for [Filing Party, e.g., Appellant]**
[or Pro Se Filing Party]

*When seeking or opposing transfer or review, use Court of Appeals or Tax Court case number unless Supreme Court number has been assigned.

**Include information only about the filing party on the cover.